

**Data (Use and Access) Bill - Draft clause to facilitate transfer of personal data between police forces and the Crown Prosecution Service prior to charging decisions.**

(n) (1) The 2018 Act is amended in accordance with subsection (2).

(2) In the 2018 Act, after section 40 insert—

**“40A Processing of data in relation to a case-file prepared by a police force for submission to the Crown Prosecution Service for a charging decision**

(1) Subsections (2) to (6) apply to a set of processing operations consisting of the preparation of a case-file by a police force for submission to the Crown Prosecution Service for a charging decision, the making of a charging decision by the Crown Prosecution Service, and the return of the case-file by the Crown Prosecution Service to the police force after a charging decision has been made.

(2) A police force shall not be obliged to comply with the first data protection principle except insofar as that principle requires processing to be fair, or the third data protection principle, in preparing a case-file for submission to the Crown Prosecution Service for a charging decision.

(3) The Crown Prosecution Service shall not be obliged to comply with the first data protection principle except insofar as that principle requires processing to be fair, or the third data protection principle, in making a charging decision on a case-file submitted for that purpose by a police force.

(4) If the Crown Prosecution Service decides that a charge will not be pursued when it makes a charging decision on a case-file submitted for that purpose by a police force it shall take all steps reasonably required to destroy and delete all copies of the case-file in its possession.

(5) If the Crown Prosecution Service decides that a charge will be pursued when it makes a charging decision on a case-file submitted for that purpose by a police force it shall return the case-file to the police force and take all steps reasonably required to destroy and delete all copies of the case-file in its possession.

(6) Where the Crown Prosecution Service decides that a charge will be pursued when it makes a charging decision on a case-file submitted for that purpose by a police force and returns the case-file to the police force under subsection (5), the police force shall be obliged to comply with the first data protection principle and the third data protection principle in relation to any subsequent processing of the data contained in the case-file.

(7) For the purposes of this section:-

(a) The preparation of, or preparing, a case-file by a police force for submission to the Crown Prosecution Service for a charging decision shall include the submission of the file.

(b) A case-file shall include all information obtained by a police force for the purpose of preparing a case-file for submission to the Crown Prosecution Service for a charging decision.

(c) [Consider whether any other definitions are required].”